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REMARKS

Claims 1-4 and 7-25 are currently pending in the subject application and are presently under consideration. Favorable consideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claims 1-4 and 7-25 Under 35 U.S.C. §102(e)

Claims 1-4 and 7-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Boehm *et al.* (US 6,457,170). This rejection should be withdrawn for at least the following reasons. Boehm *et al.* fails to teach or suggest each and every limitation set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown *in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

The claimed invention relates to a system and method for managing the distribution and collection of files involved in building a software system. In particular, the invention as claimed utilizes a first component to build a list of file names to be shared by build machines employed in developing computer software, and a second component that *distributes* files contained in the list of files names generated by the first component to the build machines, the files so distributed by the second component being *stored persistently on the build machine*.

Independent claims 1, 15, 19, 20, 21, 24 and 25 recite similar claim limitations, and in particular: *a second component for distributing to one or more of the build machines one or more published files, identified in the list of file names, that are to be stored persistently by the one or more build machines*. It is apparent therefore that the invention as claimed *persistently stores* files locally that are *distributed* to the one or more build machines by the second component. Boehm *et al.* is silent regarding these

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novel features of the claimed invention.

Boehm *et al.* discloses building a software system in a networked software development environment wherein *network cache memories* are pre-loaded "with as much useful information as can be ascertained from the build list." See Abstract and col. 6, lines 3-4. In response to applicant's representative's contention that Boehm *et al.* fails to teach or suggest persistently storing build files on one or more build machines, the Examiner asserts in the Final Office Action dated April 20, 2004, pages 15-16, that since Boehm *et al.* states at col. 9, lines 10-14, "the present invention can be practiced with ... one or more local caches, if the present invention is being practiced on a standalone workstation", that Boehm *et al.* therefore implicitly teaches persistently storing distributed files on the build machines. Further the Examiner contends that "the aspect of the invention disclosed by Boehm *et al.* consisting of a single workstation encompassing the components does not depart from the applicant's claimed invention, as claim 2 of the applicant's invention states 'wherein the first component, the second component and the one or more build machines execute on a single computer.' " *Id.* Applicant's representative respectfully disagrees, and submits that the Examiner has conflated the distinction between *build machines* and a *single computer/workstation* as recited in the subject claims.

While it is possible that Boehm *et al.* can be practiced on a standalone workstation, in which case files may be stored locally on the single workstation; the invention as claimed draws a distinction between *build machines* and the *computer/workstation* upon which the one or more build machines execute. Under applicant's conception, where the one or more build machines execute on a single computer, the build machine is distinct from the machine upon which it executes, *e.g.* the build machine becomes one or more virtual build machine processes running on the single computer/workstation. As a consequence, the first component and second component as recited in independent claims 1, 15, 19, 20, 21, 24 and 25 are still necessary to effectuate the invention as claimed, *e.g.* the first component would still be necessary to build a list of file names of published files to be shared by the plurality of build machines (virtual build machine processes) employed in building the software system, and further the second component would still be necessary to distribute to the one

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or more build machines (virtual build machine processes) published files, identified in the list of file names compiled by the first component. Thus, regardless of whether or not applicant's claimed invention is executed on a single computer/workstation, or multiple computers/workstations, the necessity for both the first component and second component to effectuate the invention as claimed is exigent. On the other hand, where Boehm *et al.*'s conception is performed on a single computer/workstation, by implication the requirement for generating a cache link structure to the now locally stored files is negated because one skilled in the art would recognize the futility, where files are stored locally, of linking files back onto themselves. Moreover, where Boehm *et al.* is practiced on a single computer/workstation the requirement that a second component distribute to the one or more build machines the published files identified by the first component would further be unnecessary because there would be no requirement to distribute files already existent on the single computer/workstation unless the term "build machine" as recited in the subject claims is read to comprise one or more virtual build machine processes distinct from the computer/workstation itself, which in the case of Boehm *et al.* is neither apparent nor implicit. Thus, it is submitted that the invention as claimed is clearly distinguishable from Boehm *et al.*

Accordingly, in view of the foregoing, it is believed that independent claims 1, 15, 19, 20, 21, 24 and 25 (and claims that depend there from) are in condition of allowance, and that this rejection should be withdrawn.

II. Rejection of Claim 14 Under 35 U.S.C. §103(a)

Claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Boehm *et al.* (US 6,457,170) in view of Lubkin *et al.* (US 5,339,435). As previously stated in the Reply to Final Office Action dated April 20, 2004, claim 14 depends from independent claim 1, and Lubkin *et al.* fails to make up for the aforementioned deficiencies presented by Boehm *et al.* with respect to independent claim 1. Accordingly, withdrawal of this rejection and allowance of claim 14 is respectfully requested.

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CONCLUSION


The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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